

§ 301.7611–1 [Amended]

Par. 3. For each section listed in the table, remove the language in the

“Remove” column and add in its place the language in the “Add” column as set forth below:

Section	Remove	Add
§ 301.7611–1 A–1 first sentence	appropriate Regional Commissioner (or higher Treasury official).	Director, Exempt Organizations.
§ 301.7611–1 A–7 first sentence	appropriate Internal Revenue Service Regional Commissioner.	Director, Exempt Organizations.
§ 301.7611–1 A–9 first sentence	appropriate Regional Commissioner	Director, Exempt Organizations.
§ 301.7611–1 A–10 first sentence	appropriate Regional Counsel	Division Counsel/Associate Chief Counsel, Tax Exempt and Government Entities.
§ 301.7611–1 A–10 paragraph (b) first sentence	At the time the notice of examination (second notice) is provided to the church, a copy of the same notice will be provided to the appropriate Regional Counsel.	Before the notice of examination (second notice) is provided to the church, a copy of the same notice will be provided to the Division Counsel/Associate Chief Counsel, Tax Exempt and Government Entities.
§ 301.7611–1 A–10 paragraph (b) second sentence.	Regional Counsel	Division Counsel/Associate Chief Counsel, Tax Exempt and Government Entities.
§ 301.7611–1 A–11 paragraph (c) first, second and third sentences.	Regional Counsel	Division Counsel/Associate Chief Counsel, Tax Exempt and Government Entities.
§ 301.7611–1 A–15 paragraph (c) first and third sentences.	appropriate Regional Commissioner	Director, Exempt Organizations.
§ 301.7611–1 A–15 paragraph (c) second sentence.	Regional Commissioner	Director, Exempt Organizations.
§ 301.7611–1 A–16 first sentence	Assistant Commissioner (Employee Plans and Exempt Organizations).	Commissioner, Tax Exempt and Government Entities or the Deputy Commissioner, Tax Exempt and Government Entities.
§ 301.7611–1 A–16 second sentence	Assistant Commissioner’s approval	approval of the Commissioner, Tax Exempt and Government Entities or the Deputy Commissioner, Tax Exempt and Government Entities.
§ 301.7611–1 A–16 paragraph (a) second sentence.	Assistant Commissioner (Employee Plans and Exempt Organizations).	Commissioner, Tax Exempt and Government Entities or the Deputy Commissioner, Tax Exempt and Government Entities.
§ 301.7611–1 A–17 first sentence	Regional Commissioner	Director, Exempt Organizations.
§ 301.7611–1 A–17 paragraph(a) third sentence	Regional Commissioner	Director, Exempt Organizations.
§ 301.7611–1 A–17 paragraph (a) fourth sentence.	appropriate Regional Commissioner’s belief ...	belief of the Director, Exempt Organizations.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

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ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52

[EPA–R09–OAR–2008–0379; FRL–8940–3]

Approval and Promulgation of Maintenance Plan for Carbon Monoxide; State of Arizona; Tucson Air Planning Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act, EPA is proposing to approve two State implementation plan revisions submitted by the State of Arizona. The State submitted the 2008 Revision to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area on July 10, 2008. EPA is proposing to

approve the 2008 Limited Maintenance Plan because it provides for the maintenance of the carbon monoxide national ambient air quality standard within the Tucson Air Planning Area through the second 10-year portion of the maintenance period. EPA is also proposing to approve a statutory provision that was submitted by the State on June 22, 2009 as a revision to the State implementation plan and that extends the life of the State’s vehicle emissions inspection program through the end of 2016. EPA is taking this action pursuant to those provisions of the Clean Air Act that obligate the Agency to take action on submittals of revisions to State implementation plans. The effect of this action would be to make certain commitments related to maintenance of the carbon monoxide standard in the Tucson Air Planning Area Federally enforceable as part of the Arizona State implementation plan.

DATES: Written comments must be received at the address below on or before September 4, 2009.

ADDRESSES: Submit comments, identified by docket number EPA–R09–

OAR–2008–0379, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* robin.marty@epa.gov.

3. *Mail or deliver:* Marty Robin (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> portal is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA without going through <http://>

www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disc or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Marty Robin, Air Planning Office (AIR-2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 972-3961.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we", "us", and "our" refer to EPA.

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I. Summary of EPA's Action

Under the Clean Air Act (CAA or "Act"), EPA is proposing to approve the

2008 Revision to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area (TAPA) ("2008 CO Maintenance Plan"), adopted by the Pima Association of Governments (PAG) on June 26, 2008, and submitted by the Arizona Department of Environmental Quality (ADEQ) as a revision to the Arizona State Implementation Plan (SIP) on July 10, 2008. In the 1970s, TAPA was designated as a nonattainment area for the carbon monoxide (CO) national ambient air quality standard (NAAQS). In 2000, in light of improved ambient CO conditions and implementation of permanent CO-emissions-reducing measures, EPA approved ADEQ's request to redesignate the TAPA to attainment for the CO NAAQS and approved the 1996 Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area ("1996 CO Maintenance Plan"), which provides for maintenance of the standard for the first 10 years after redesignation. The 2008 CO Maintenance Plan submitted by ADEQ on July 10, 2008 is designed to maintain the CO standard within the TAPA for a second ten-year period beyond redesignation, and we are proposing to approve the 2008 CO Maintenance Plan because we conclude that it meets all applicable requirements under CAA sections 110 and 175A.

As a general matter, the 2008 CO Maintenance Plan relies on the same control measures and contingency provisions to maintain the CO NAAQS during the second ten-year portion of the maintenance period as the 1996 CO Maintenance Plan relied upon for the first 10-year period. One of the control measures, the State's vehicle emissions inspection (VEI) program, is subject to a legislative sunset clause. To provide for the continuation of the VEI program, on June 22, 2009, ADEQ submitted, and EPA is proposing to approve, a SIP revision containing a statutory provision that extends the life of the State's VEI program through the end of 2016. While the second 10-year maintenance period extends until 2020, based on the Arizona's Legislature's support for the VEI program in the past, we expect the Legislature to extend the life of the VEI program once again prior to 2016.

II. Background

Carbon monoxide (CO) is a colorless and odorless gas, formed when carbon in fuel is not burned completely. It is a component of motor vehicle exhaust, which contributes about 60 percent of all CO emissions nationwide. High concentrations of CO generally occur in areas with heavy traffic congestion. Peak CO concentrations typically occur

during the colder months of the year when CO automotive emissions are greater and nighttime inversion conditions (where air pollutants are trapped near the ground beneath a layer of warmer air) are more frequent. CO enters the bloodstream through the lungs and reduces oxygen delivery to the body's organs and tissues. The health threat from levels of CO sometimes found in the ambient air is most serious for those who suffer from cardiovascular disease, such as angina pectoris.

Under the CAA, as amended in 1970, EPA promulgated NAAQS to protect public health and welfare for six criteria pollutants, including CO. EPA set the NAAQS for CO at 35 parts per million (ppm), one-hour average, and 9 ppm, eight-hour average. The CO NAAQS remain the same today. See 40 CFR 50.8. Under the CAA, States are required to adopt and submit plans to implement, maintain, and enforce the NAAQS throughout the State. Such plans are referred to as State Implementation Plans (SIPs).

Pursuant to the CAA, as amended in 1977, EPA designated all areas of the country as attainment, nonattainment, or unclassifiable for each of the NAAQS. EPA designated the TAPA as nonattainment for the CO NAAQS although the specific boundaries of the area have changed over time. See 43 FR 8962, at 8968 (March 3, 1978); 44 FR 16388, at 16392 (March 19, 1979); and 51 FR 27843, at 27844 (August 4, 1986). The current boundary of the TAPA defined by township and range as is set forth in the CO table contained in 40 CFR 81.303. Pursuant to the CAA as amended in 1990, TAPA's nonattainment area designation was carried forward by operation of law, but TAPA was not further classified under the 1990 CAA Amendments because no CO violations had been recorded in the area during 1988 and 1989. See 56 FR 56694, at 56716 (November 6, 1991).

In the mid-1990s, in response to the full implementation of a number of CO reduction measures and an extended period during which no CO violations were monitored in the TAPA, ADEQ requested redesignation of TAPA to "attainment" for the CO NAAQS. For EPA to approve a redesignation request, among other criteria, a State must submit (and EPA approve) a maintenance plan that covers the period extending 10 years after redesignation. See CAA sections 107(d)(3)(E)(iv) and 175A. EPA has published guidance for States on developing such maintenance

plans.¹ For certain “not classified” CO nonattainment areas (*i.e.*, those with design values² at or below 85% of the standard, or 7.65 ppm, eight-hour average), such as the TAPA, EPA interprets the CAA to allow States to develop more limited maintenance plans, referred to as Limited Maintenance Plans (LMPs).³

As the designated metropolitan planning organization (MPO) for the Tucson region, the Pima Association of Governments (PAG) is responsible under Arizona law for development of nonattainment and maintenance plans for the TAPA. PAG opted to develop an LMP for the TAPA, and in 1997, ADEQ submitted PAG’s 1996 Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area (“1996 CO Maintenance Plan”) to EPA as a revision to the Arizona SIP. In 2000, EPA approved the 1996 CO Maintenance Plan and the State’s request to redesignate the TAPA to attainment for the CO NAAQS. See 65 FR 36353 (June 8, 2000), as corrected at 65 FR 50651 (August 21, 2000) and 69 FR 12802 (March 18, 2004). In connection with our approval of the 1996 CO Maintenance Plan, we approved various statutory provisions providing for the continuation of the control measures and the authority for State agencies to implement the contingency measures upon which the maintenance plan relies. One of the approved statutory provisions (*i.e.*, Arizona Revised Statutes (ARS) section 41–3009.01) extended the life of the State’s VEI program through the end of 2008. As the first 10-year maintenance plan, the 1996 CO Maintenance Plan was intended to provide for maintenance of the CO NAAQS in the TAPA through mid-2010.

Under CAA section 175A(b), States must submit a revision to the maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for 10 years following the end of the first 10-year period. In recognition of the continuing record of monitoring data showing ambient CO concentrations in the TAPA well below the LMP eligibility threshold (*i.e.*, 7.65 ppm), PAG chose the LMP

¹ Calcagni, John, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, “Procedures for Processing Requests to Redesignate Areas to Attainment,” September 4, 1992.

² The design value is the highest of the second high eight-hour concentrations observed at any site in the area.

³ Paisie, Joseph W., Group Leader, Integrated Policy and Strategies Group, EPA Office of Air Quality Planning and Standards, “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas,” October 6, 1995.

option again for the development of a second 10-year CO maintenance plan. On June 26, 2008, PAG adopted the second 10-year CO maintenance plan, entitled “2008 Revision to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area (for 2010)” (herein referred to as the “2008 CO Maintenance Plan”), and on July 10, 2008, ADEQ submitted the 2008 CO Maintenance Plan to EPA as a revision to the Arizona SIP.

On June 22, 2009, to extend the life of the VEI program through most of the second 10-year period, ADEQ submitted a statutory provision (ARS section 41–3017.01) as a revision to the Arizona SIP. ARS section 41–3017.01 extends the life of the State’s VEI program until the end of 2016.

The 2008 CO Maintenance Plan and VEI-related statutory provision are the subjects of today’s proposed rule.

III. Arizona’s SIP Submittals

On July 10, 2008, the ADEQ Director adopted and submitted the 2008 CO Maintenance Plan to EPA as a revision to the Arizona SIP. The submittal includes the maintenance plan and appendices as well as certification of adoption of the plan by PAG. Appendices to the plan include inventory information, certain Arizona statutes, an updated interagency memorandum of agreement, a letter from ADEQ regarding the continuation of the VEI program, PAG’s “Air Quality Report—2007 National, State and Tucson Region Trends,” resolutions from the PAG jurisdictions concerning priorities for transportation improvement programs (that had been previously submitted and approved by EPA in connection with the 1996 CO Maintenance Plan), and documentation of notice, hearing, and public participation prior to adoption of the plan by the PAG Regional Council on June 26, 2008.

The 2008 CO Maintenance Plan does not include any additional measures but relies on the same strategy as the 1996 CO Maintenance Plan to provide for maintenance of the CO NAAQS through 2020. Specifically, the measures upon which the second 10-year maintenance plan for the TAPA relies include the continuation of the Federal Motor Vehicle Control Program (FMVCP), the State’s VEI program, the State’s wintertime oxygenated gasoline program (1.8% oxygen content), and to a lesser extent, PAG’s Trip Reduction Program and Pima County Department of Environmental Quality’s (PDEQ’s) voluntary no-drive days program. The 2008 CO Maintenance Plan also carries forward essentially the same

contingency plan as contained in the 1996 CO Maintenance Plan.

On June 22, 2009, ADEQ submitted a supplement to the 2008 CO Maintenance Plan that includes ARS section 41–3017.01, a statutory provision that extends the life of the State’s VEI program until the end of 2016, as a revision to the Arizona SIP. In addition to the statutory provision itself, ADEQ’s June 22, 2009 submittal package includes evidence of public notice, public hearing, and adoption.

IV. EPA’s Evaluation of Arizona’s SIP Submittals

A. Procedural Requirements

CAA section 110(a)(2) and 110(l) require revisions to a SIP to be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of a notice by prominent advertisement in the relevant geographic area of proposed SIP revisions, at least a 30-day public comment period, and an opportunity for a public hearing.

Documentation in Appendix H of the 2008 CO Maintenance Plan shows that, on March 27, 2008, PAG published a notice of a 30-day comment period and a public hearing in newspapers of general circulation in the Tucson area. On April 29, 2008, PAG held a public hearing on the 2008 CO Maintenance Plan. No oral or written comments were submitted, and on June 26, 2008, the PAG Regional Council adopted the plan. Then, in accordance with State law, on July 10, 2008, ADEQ adopted and submitted the 2008 CO Maintenance Plan to EPA as a revision to the Arizona SIP. The process followed by PAG and ADEQ in adopting the 2008 CO Maintenance Plan complies with the procedural requirements for SIP revisions under CAA section 110 and EPA’s implementing regulations.

Documentation in ADEQ’s June 22, 2009 SIP submittal shows that appropriate notice, hearing, and adoption procedures were also followed by PAG and ADEQ with regards to the adoption and submittal of the SIP revision containing the statutory provision (ARS section 41–3017.01) that extends the life of the VEI program through the end of 2016.

B. Substantive Requirements

EPA has reviewed the 2008 CO Maintenance Plan, which provides the second 10-year update to the CO maintenance plan for the TAPA, as required under CAA section 175A(b). The following is a summary of the

requirements and EPA's evaluation of how each requirement is met.

1. Attainment Emissions Inventory

For maintenance plans, a State should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A State should

develop this inventory consistent with EPA's most recent guidance on emissions inventory development. For CO, the inventory should reflect typical wintertime conditions.

The 2008 CO Maintenance Plan includes a CO attainment inventory for the TAPA that reflects typical wintertime conditions in year 2008. Table 1 presents a summary of the

inventory for 2008 contained in the maintenance plan. As shown in table 1, the 2008 Maintenance Plan estimates that on-road mobile sources contribute approximately 63% to the total CO inventory within the TAPA in 2008 and nonroad mobile contribute approximately 33%. Stationary point and area sources contribute less than 4%.

TABLE 1—2008 TYPICAL WINTER DAY CO EMISSIONS FOR THE TUCSON REGION (TONS/DAY)

Sources	CO (tons/day)	Percent of total CO emissions
Point	9.04	1.66
Area	9.57	1.75
Nonroad Mobile	182.62	33.46
On-road Mobile	344.56	63.13
TOTAL	545.79	

Source: 2008 CO Maintenance Plan, page 6.

Appendix A of the 2008 CO Maintenance Plan describes the methods, models, and assumptions used to develop the attainment inventory. As described in appendix A, for stationary point and area sources, PAG generally relied upon the results of a 2001 study of actual emissions in 2000 to project emissions from such sources in 2008. However, with respect to one particular area source, residential wood burning, PAG updated the baseline estimates to reflect more accurate activity level estimates. Nonroad mobile source emissions were, in part, estimated using EPA's NONROAD2005 emission model (agricultural, commercial and mining, industrial and recreational equipment, and commercial and residential lawn and garden equipment). For on-road mobile sources, PAG used the latest EPA motor vehicle emissions model, MOBILE6.2, and the latest planning assumptions regarding vehicle type, vehicle activity, and vehicle speeds to estimate vehicular emissions for 2008. PAG's estimates for vehicles reflect 2007 winter meteorological conditions, local wintertime gasoline specifications, such as minimum oxygen content, the State's VEI program, and the averaging of high-altitude and low-altitude MOBILE6.2 emissions factors.

Based on our review of the methods, models, and assumptions used by PAG

to develop the CO estimates, we find that the 2008 Maintenance Plan includes a comprehensive, reasonably accurate inventory of actual CO emissions in an attainment year (2008), and conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

2. Maintenance Demonstration

The maintenance plan demonstration requirement is considered to be satisfied for areas that were once nonclassifiable for CO (e.g., TAPA) if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (7.65 ppm or 85 percent of the eight-hour CO NAAQS). PAG has opted to develop an LMP to fulfill the TAPA second 10-year maintenance period requirement under CAA section 175A(b).

Under the LMP option, there is no requirement to project emissions over the maintenance period. EPA believes if the area begins the first 10-year maintenance period at or below 7.65 ppm, eight-hour average (85 percent of the NAAQS), the air quality, along with the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate

assurance of maintenance over the initial 10-year maintenance period.

The same holds true for the second 10-year maintenance period. If the area initially qualified for the LMP option, and the monitoring data over the first 10-year maintenance period continues to meet the air quality criteria for limited maintenance areas (7.65 ppm or 85 percent of the NAAQS), then we believe that the air quality, along with the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the second 10-year maintenance period.

Table 2 presents the second highest 8-hour CO concentration at the six CO monitoring sites in the TAPA over the 1998–2008 period. Two of the six monitoring sites, the 22nd Street/Alvernon and Golf Links/Kolb sites, are considered microscale and record concentrations in the vicinities of heavily-traveled intersections. As shown in table 2, 2nd-high CO concentrations, which form the basis for the design value in an area, have all been well below the LMP option threshold of 7.65 ppm at all of the monitoring stations over the entire first 10-year maintenance period. (The current design value is 2.0 ppm based on 2006–2008 data.) Moreover, the 2008

year maintenance period. However, in a letter dated March 10, 2008, and included as appendix D of the 2008 CO Maintenance Plan, ADEQ explains why it believes that the VEI program will continue beyond 2016 notwithstanding the sunset date. First, ADEQ states that the VEI program is recognized as an integral component for air quality plans in both the Phoenix and Tucson areas and that continuation of the program is important to achieve and maintain

the NAAQS in those areas. Second, ADEQ notes that the Arizona Legislature has consistently supported the program since its inception in 1976, and thus, can reasonably be expected to do so in the future. EPA believes that ADEQ's rationale provides a reasonable basis for EPA to assume that the VEI program will be extended when it expires at the end of 2016.

⁴ The State's VEI program, as approved in the Arizona SIP, is authorized through the end of 2008. In 2007, the State Legislature acted to extend the program through the end of 2016 (see ARS section 41-3017.01). As noted above, on June 22, 2009, ADEQ submitted ARS 41-3017.01 to EPA as a SIP revision, and we are proposing to approve the VEI program extension in this notice. We recognize that 2016 is 3½ years short of the end of the second 10-

CO Maintenance Plan essentially maintains existing controls, including the FMVCP, the State's VEI program,⁴

the wintertime oxygenated gasoline program, and contingency provisions.

TABLE 2—SECOND HIGHEST EIGHT-HOUR CO CONCENTRATIONS (PPM) AT THE SIX CO MONITORING SITES IN THE TAPA, 1998–2008

Year	Downtown	22nd/ Craycroft	22nd/ Alvernon	Children's Park	Cherry/ Glenn	Golf Links/ Kolb
1998	3.9	2.3	4.0	1.7	3.1	ND
1999	3.2	2.0	3.8	1.9	3.4	ND
2000	3.5	2.4	4.7	1.9	3.3	ND
2001	2.5	1.7	2.9	1.7	2.6	ND
2002	2.3	1.9	2.5	1.6	2.3	2.6
2003	2.7	1.9	2.6	1.4	2.7	2.2
2004	2.5	1.6	2.0	1.4	2.2	2.1
2005	1.7	1.5	2.1	1.1	2.4	2.1
2006	1.2	1.4	1.8	1.0	2.0	1.6
2007	1.4	1.2	1.9	1.0	1.5	1.3
2008	1.0	1.1	1.3	0.9	1.5	1.2

Source: Air Quality System, Quick Look Summary Report, March 17, 2009.

Therefore, the TAPA continues to be eligible for the LMP option, and the long record of low monitored CO concentrations, together with the continuation of existing CO emissions control programs, adequately demonstrate that the TAPA will maintain the CO NAAQS through the second 10-year maintenance period and beyond.

3. Monitoring Network and Verification of Continued Attainment

EPA reviews the CO monitoring network that PDEQ operates and maintains, in accordance with 40 CFR part 58. This network is consistent with the ambient air monitoring network assessment and plan developed by PDEQ that is submitted annually to EPA and that follows a public notification and review process. EPA has reviewed and approved the 2007 Ambient Air Monitoring Network Assessment and Plan (“2007 Annual Network Plan”).⁵

To verify the attainment status of the area over the maintenance period, the maintenance plan should contain provisions for continued operation of an appropriate, EPA-approved monitoring network in accordance with 40 CFR part 58. As noted above, PDEQ's monitoring network in the TAPA has been approved by EPA in accordance with 40 CFR part 58, and the area has committed to continue to maintain a network in accordance with EPA requirements. For

further details on monitoring, the reader is referred to the 2007 PDEQ Annual Network Plan found at: <http://www.pima.gov/deq/air/pdf/2007NetworkReview.pdf> as well as EPA's approval letter for the 2007 Annual Network Plan, which can be found in the docket for today's action. We believe PDEQ's monitoring network is adequate to verify continued attainment of the CO NAAQS in the TAPA.

4. Contingency Plan

Section 175A(d) of the Act requires that a maintenance plan include contingency provisions. The purpose of such contingency provisions is to prevent future violations of the NAAQS or promptly remedy any NAAQS violations that might occur during the maintenance period.

The 2008 CO Maintenance Plan carries forward the same contingency provisions, only slightly modified, that were included in the 1996 CO Maintenance Plan, and that we found acceptable when we approved the earlier maintenance plan. In short, and much like the 1996 CO Maintenance Plan, the 2008 CO Maintenance Plan identifies events, including measurements of certain threshold CO concentrations or projections of high CO concentrations based on periodic modeling analyses, that trigger a requirement to conduct specific types of

field studies and technical analyses, followed by adoption and implementation of contingency measures as needed to address the sources causing the elevated CO conditions. The 2008 CO Maintenance Plan lists potential contingency measures such as transportation system management improvements and incremental increases in the wintertime gasoline oxygen content, among others.

The only significant difference between the contingency provisions in the approved 1996 CO Maintenance Plan and the contingency provisions in the submitted 2008 CO Maintenance Plan relates to the use of a portable CO monitor. In the 1996 plan, the use of a portable CO monitor was not made contingent upon the occurrence of a particular event, but rather was a part of ongoing monitoring and modeling efforts to verify continued attainment. In contrast, the 2008 CO Maintenance Plan commits to the use of a portable CO monitor contingent upon the occurrence of certain monitored levels or a determination by PAG that the agency's periodic modeling analyses have raised a reasonable probability of CO violations at hot-spot locations within the TAPA. In view of the low monitored CO levels in the TAPA, we find acceptable the reduced role for the portable CO monitor, and believe that the contingency provisions in the 2008

supported the program since its inception in 1976, and thus, can reasonably be expected to do so in the future. EPA believes that ADEQ's rationale provides a reasonable basis for EPA to assume that the VEI program will be extended when it expires at the end of 2016.

⁴ See EPA letter dated November 10, 2008, to Ursula Kramer, PDEQ, from Sean Hogan, EPA Region 9, in the docket for today's action.

⁵ The State's VEI program, as approved in the Arizona SIP, is authorized through the end of 2008. In 2007, the State Legislature acted to extend the program through the end of 2016 (see ARS section 41–3017.01). As noted above, on June 22, 2009, ADEQ submitted ARS 41–3017.01 to EPA as a SIP revision, and we are proposing to approve the VEI program extension in this notice. We recognize that 2016 is 3½ years short of the end of the second 10-year maintenance period. However, in a letter dated

March 10, 2008, and included as appendix D of the 2008 CO Maintenance Plan, ADEQ explains why it believes that the VEI program will continue beyond 2016 notwithstanding the sunset date. First, ADEQ states that the VEI program is recognized as an integral component for air quality plans in both the Phoenix and Tucson areas and that continuation of the program is important to achieve and maintain the NAAQS in those areas. Second, ADEQ notes that the Arizona Legislature has consistently

CO Maintenance Plan meet the requirements of CAA section 175A(d).

C. Conclusion

We conclude that the 2008 CO Maintenance Plan, as supplemented by the submittal of the statutory provision extending the VEI program, includes an acceptable update of the various elements of the initial EPA-approved 1996 CO Maintenance Plan (including emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions), and essentially carries forward all of the control measures and contingency provisions relied upon in the earlier plan. We also find that the TAPA, a former nonclassifiable CO nonattainment area, continues to qualify for the LMP option and that therefore the 2008 CO Maintenance Plan adequately demonstrates maintenance of the CO NAAQS through the documentation of monitoring data showing maximum CO levels less than 7.65 ppm, eight-hour average (85 percent of the NAAQS), and through the continuation of existing control measures. We believe the 2008 CO Maintenance Plan as supplemented, to be sufficient to provide for maintenance of the CO NAAQS in the TAPA over the second 10-year maintenance period (*i.e.*, through mid-2020) and thereby satisfy the requirements for such a plan under CAA section 175A(b). In light of the above, we are therefore proposing to approve ADEQ's submittal on July 10, 2008 of the 2008 CO Maintenance Plan, and ADEQ's submittal on June 22, 2009 of the statutory provision extending the life of the VEI program, as a revision to the Arizona SIP.

V. Transportation and General Conformity

Section 176(c) of the Act requires that all Federal actions conform to an applicable SIP. Conformity is defined in section 176(c) of the Act as conformity to a SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area; (2) increase the frequency or severity of any existing violation of any standard in any area; or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. EPA has established criteria and procedures for Federal agencies to follow in determining conformity of their actions. EPA's rule governing transportation plans, programs, and projects approved or funded by the

Federal Highway Administration or Federal Transit Administration is referred to as the "transportation conformity" rule (*see* 40 CFR part 93, subpart A), and EPA's rule governing all other types of Federal agency actions is referred to as the "general conformity" rule (*see* 40 CFR part 93, subpart B).

The transportation conformity rule and the general conformity rule apply to nonattainment areas and former nonattainment areas, like TAPA, that have been redesignated as attainment and that are subject to a maintenance plan. Under either rule, one means of demonstrating conformity of Federal actions is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area.

While EPA's LMP option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP option, emissions budgets are treated as essentially not constraining for the length of the applicable maintenance period because it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the CO NAAQS would result. In other words, in LMP areas, EPA concludes that emissions need not be capped for the maintenance period. Therefore, in areas with approved LMPs, Federal actions requiring conformity determinations under the transportation conformity rule are considered to satisfy the "budget test" required in 40 CFR 93.118. Similarly, in these areas, Federal actions subject to the general conformity rule are considered to satisfy the "budget test" specified in 40 CFR 93.158(a)(5)(i)(A) of the rule.

While areas with maintenance plans approved under the LMP option are not subject to the budget test, the areas remain subject to other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the applicable MPO or State must document and ensure that:

(a) Transportation plans and projects provide for timely implementation of SIP transportation control measures in accordance with 40 CFR 93.113;

(b) Transportation plans and projects comply with the fiscal constraint element per 40 CFR 93.108;

(c) The MPO's interagency consultation procedures meet the applicable requirements of 40 CFR 93.105;

(d) Conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects

is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;

(e) The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;

(f) Projects do not cause or contribute to any new localized CO violations, in accordance with procedures specified in 40 CFR 93.123; and

(g) Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

We posted the 2008 Revision to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area on EPA's transportation conformity adequacy Web site on October 2, 2008 for 30 days and did not receive any comments on the adequacy of the plan. We believe that the 2008 CO Maintenance Plan demonstrates that it is unreasonable to expect that the area would experience enough growth in motor vehicle emissions for a violation of the CO NAAQS to occur and qualifies as an LMP, and on that basis, we are proposing to approve the 2008 CO Maintenance Plan for transportation conformity purposes. This determination waives the need for a motor vehicle emissions budget, although it does not relieve the area or the other transportation conformity requirements noted above. If finalized as proposed, PAG (the area's MPO), the Federal Highway Administration, and the Federal Transit Administration will not be required to satisfy the regional emissions analysis (with respect to CO) under 40 CFR 93.118 and/or 40 CFR 93.119 in determining the conformity of transportation plans, programs and projects in the TAPA. *See* 40 CFR 93.109(j).

VI. Proposed Action and Public Comment

Under sections 110(k) and 175A of the CAA and for the reasons set forth above, EPA is proposing to approve two revisions of the Arizona SIP submitted by ADEQ. The first, submitted on July 10, 2008, includes the 2008 CO Maintenance Plan for the Tucson Air Planning Area, and the second, submitted on June 22, 2009, includes a statutory provision (ARS section 41-3017.01) extending the life of the VEI program through the end of 2016.

We are proposing to approve the 2008 CO Maintenance Plan because we find that it includes an acceptable update of the various elements of the initial EPA-approved 1996 CO Maintenance Plan (including emissions inventory, assurance of adequate monitoring and verification of continued attainment,

and contingency provisions), and essentially carries forward all of the control measures and contingency provisions relied upon in the earlier plan. We also find that the TAPA, a former nonclassifiable CO nonattainment area, continues to qualify for the LMP option and that therefore the 2008 CO Maintenance Plan adequately demonstrates maintenance of the CO NAAQS through documentation of monitoring data showing maximum CO levels less than 85% of the NAAQS and continuation of existing control measures. We believe the 2008 CO Maintenance Plan to be sufficient to provide for maintenance of the CO NAAQS in the TAPA over the second 10-year maintenance period and to thereby satisfy the requirements for such a plan under CAA section 175A(b). If finalized as proposed, our approval will make Federally enforceable the 2008 CO Maintenance Plan's contingency provisions, which are slightly modified from the corresponding provisions in the 1996 CO Maintenance Plan.

In connection with the 2008 CO Maintenance Plan, we are proposing to approve the statutory provision, ARS section 41-3017.01, that extends the life of the State's VEI program (applicable to the TAPA and Phoenix metropolitan areas) until the end of 2016, and that was submitted to EPA as a revision to the Arizona SIP on June 22, 2009, based on our expectation that the Arizona Legislature will extend the VEI program beyond 2016.

We also find that the 2008 CO Maintenance Plan qualifies for evaluation as an limited maintenance plan under our LMP policy in light of low monitored CO levels in the TAPA and therefore propose to approve the 2008 CO Maintenance Plan for transportation conformity purposes. If finalized as proposed, PAG (the area's MPO), the Federal Highway Administration, and the Federal Transit Administration will not be required to satisfy the regional emissions analysis under 40 CFR 93.118 and/or 40 CFR 93.119 in determining conformity of transportation plans and programs in the TAPA.

EPA is soliciting public comments on this document and on issues relevant to EPA's proposed action. We will accept comments from the public on this proposal for the next 30 days.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable

Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 21, 2009.

Kathleen H. Johnson,

Acting Regional Administrator, Region IX.

[FR Doc. E9-18693 Filed 8-4-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2009-0028; FRL-8939-5]

RIN 2060-AN46

National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing national emissions standards for control of hazardous air pollutants from the chemical preparations area source category. These proposed emissions standards for new and existing sources reflect EPA's proposed determination regarding the generally available control technology or management practices for the source category.

DATES: Comments must be received on or before September 4, 2009, unless a public hearing is requested by August 17, 2009. If a hearing is requested on the proposed rules, written comments must be received by September 21, 2009. Under the Paperwork Reduction Act, comments on the information collection provisions are best assured of having full effect if the Office of Management and Budget (OMB) receives a copy of your comments on or before September 4, 2009.

ADDRESSES: You may submit comments, identified by Docket ID No. EPA-HQ-OAR-2009-0028, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Agency Web Site:* <http://www.epa.gov/oar/docket.html>. Follow the instructions for submitting comments on the EPA Air and Radiation Docket Web Site.
- *E-mail:* a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2009-0028 in the subject line of the message.
- *Fax:* (202) 566-9744.
- *Mail:* Area Source NESHAP for Chemical Preparations Manufacturing